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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,388	11/12/2003	Jeffrey A. Swaim	CFS.004CP1	9608

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/15/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/15/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/712,388

Applicant(s)

SWAIM ET AL.

Examiner

Shian T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 103

1. Claims 1-3,7-9,11,17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trummer (US 6,354,477) in view of Chen (US 5,960,952). Trummer discloses an apparatus comprising a platform having a generally triangular cross section as shown in Figures 10-14. The apparatus has a front portion 512 and a rear portion 712 meeting at an upper apex. A panel 1410 connects the front portion to the rear portion opposite the upper apex. The front and rear portions configured to form a container in a closed configuration and are sized to transport devices. The bag has zippers attach the front and rear portions in a closed position. Straps or retaining member 510 secure the electronic device to the front portion. At least two other straps 202,310,304,1902,1904 are formed on the apparatus and allow a user to secure the apparatus to a person or a vehicle portion. The straps are attached near an edge of the upper apex and are adjustable to secure to the intended object.

Applicant argues that the examiner cannot point to any strap and then conclude that it is the claimed straps of claims 1 and 7. However, the elements identified were not random straps. The claim requires first and second straps with adjustable length, which are all present in elements 202,310,304,1902,1904. The strap has a strap portion attached substantially near an edge of the upper apex, which again, the elements are near an edge of the upper apex. With regard to the functional recitation of “sufficient length to encircle at least a portion of a car seat”, the straps are of sufficient length to encircle a portion of a car seat. Applicant has not claimed a car seat with a dimension that would prevent the encircling of the straps. The car seat can be a small seat for a child such as a seat in a PowerWheel automobile, or a toy car seat. In addition,

the intended use limitation does not obviate the rejection as long as the reference is capable of performing the function.

With regard to the use of the straps in a triangular arrangement, applicant has not claimed that limitation in the claim and hence the argument is narrower than what is being presented.

With regard to applicant's argument that strap 202, 1902 and 1904 are not attached substantially near the edge or corner, the argument is not persuasive. The straps are removably attached near the edge of the upper apex. It is not located in the center of the apex but is toward the edges as shown in Figures 2A, 19-20. Applicant further assert that the straps do not provide stability or support and refers to Figure 9 of the drawing for a person to hold the computer and the bag. However, Figure 9 only shows the bag. Hence, it is not clear what applicant intends to argue with regard to the figure.

With respect to applicant's argument on the number of straps shown in the drawing, applicant clearly understands that Trummer shows at least two straps in the drawings. For example, Figure 2E and Figure 19 each shows 3 straps. Even if strap 1904 connects the bag to strap 202/1902, it is still a strap.

Trummer does not show a retaining member with a variable length. However, Chen shows a protective case for a computer with a lid and a base. The base has a strap 32 or a strap 36 to removably secure the computer within the compartment. Each strap has a first end affixed to a first side of the front portion and a second end affixed to a second side of the front portion. The strap portions removably attached to each other by Velcro. It would have been obvious to provide the removable strap to the front portion of Trummer to further secure the computer within the front panel. In addition, the strap is adjustable to secure notebooks of different sizes

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Applicant argues that the combination of Trummer and Chen is not proper because the examiner did not provide any teaching or suggestion or motivation for the combination from the references themselves. It has been held that the suggestion to modify the structure in a reference need not necessarily come from the reference itself. In re Laskowski, 10 USPQ2d 1397 (Fed Cir. 1989). It has also been held that a reference is to be considered not only for what it expressly states, but also for what it would have reasonably suggested to one of ordinary skill in the art, In re DeLisle, 56 CCPA 1319, 406 F.2d 1386, 867 OG 722, 160 USPQ 807 (CCPA 1969). In this case, the very basic motivation to combine the two references together is evident from the secondary reference and obvious to one of ordinary skill in the art. The mobile bag is subject to unwanted movement. It is for that very reason most of the laptop bags have cushions and pads to prevent damage to the laptop. If an additional strap is added as suggested by Chen, then the movement of the laptop is further restrained from unnecessary movement. In addition, the combination will not destroy the base reference as the strap can be secured in a desired location such as the top or side of the bag to allow viewing of the screen. Furthermore, the strap can be removed from attachment to allow viewing since elements 510 still secure the computer.

Chen is an analogous art to Trummer because it is in the same field of art as Trummer, i.e., a carrier for a laptop or notebook computer. Trummer is concerned with the impact of mechanical shock. In the background of the invention, Trummer stated that “a primary purpose of any portable computer carrying bag is to protect the portable computer from minor accidental damage and environmental contamination during transport. Chen is also concerned with the impact of the laptop when it is accidentally subjected to shock. Part of Chen’s solution is to

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provide strap 32 to secure the laptop in place. It is therefore proper for the two references to combine to arrive at the claimed invention.

2. Claims 1-3,5,6,7,8,9,11,12,17-19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Trummer in view of Chen (US 5,960,952) and Meritt (US 2001/0011664). Trummer discloses an apparatus comprising a platform having a generally triangular cross section as shown in Figures 10-14. The apparatus has a front portion 512 and a rear portion 712 meeting at an upper apex. A panel 1410 connects the front portion to the rear portion opposite the upper apex. The front and rear portion configured to form a container in a closed configuration and is sized to transport devices. Straps 510 secure the electronic device to the front portion. At least two other straps 202,310,304,306,1902,1904 are formed on the apparatus and allow a user to secure the apparatus to a person or a vehicle portion. The straps are attached near an edge of the upper apex and are adjustable to secure to the intended object.

Trummer does not show a retaining member with a variable length. However, Chen shows a protective case for a computer with a lid and a base. The base has a strap 32 or a strap 36 to removably secure the computer within the compartment. Each strap has a first end affixed to a first side of the front portion and a second end affixed to a second side of the front portion. The strap portions removably attached to each other by Velcro. It would have been obvious to provide the removable strap to the front portion of Trummer to further secure the computer within the front panel. In addition, the strap is adjustable to secure notebooks of different sizes

Trummer does not show strapping the bag to the car headrest. However, Meritt teaches a mounting device for releasably and securely mounting an entertainment accessory within an automobile having a headrest. The bag has straps 27,30,134,136 on the top and bottom of the

bag. The straps secure the entertainment device for viewing while in the automobile. Hence, it would have been obvious to stabilize the bag of Trummer within the automobile by strapping the bag to a headrest and a bottom anchor.

Applicant's argument on page 16 is noted. Even if Trummer and Chen are not related or concerned with a bag for use in a car, it does not prevent the application of the reference because applicant has not claimed the combination of the car and the car seat with the bag. The critical question is whether the combination can be applied in the intended use limitation presented by applicant. Since the examiner has pointed out above as to the application of the references, it is irrelevant whether they are directed to the use of the bag in a car.

Applicant then further argues that there is no suggestion to combine Trummer, Chen and Merritt. In Merritt, the references discussed the lack of securing elements for attaching computer or video computer screen in a car. In the background of the invention, Merritt stated that "While attempts have been made to secure video display devices in automobiles, there has been no effort to releasably and safely secure commercially available home-based video game players in automobiles, such as the video game players manufactured by NINTENDO, SEGA and SONY. Because TV reception in automobiles can be poor and because there is a limited repeatable entertainment value in videos, there is a need to be able to releasably and safely secure commercially available home based video game players and associated display devices in automobiles to permit individuals to play video games during automobile trips." From this suggestion, the examiner is certainly not relying on hindsight as the motivation to combine is found in the disclosure.

3. Claims 4 and 10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Hillsberg et al. (US 5,996,749).

Trummer does not show a bump covered by a rubber material as recited in claim 4. However, Hillsberg et al. teaches a container for electronic equipment such as a computer with bumps 18,20 on the interior surface of the third panel. The bumps are covered by rubber material 24 to secure hold and protect the computer. The rubber material can also be considered a bump itself. It would have been obvious in view of Hillsberg to provide cushioning structure with a rubber material cover to securely hold the computer device of Trummer.

Applicant argues that elements 18,20 are not considered as bump. However, the examiner disagrees because as stated in the previous rejection and repeated in this rejection, the elements 18,20 are covered by a rubber material 24. elements 18,20 are considered bump especially when it extends upward from the flat surface. It is also located on the bottom and side of the device.

4. Claims 13,16 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. in view of Trummer and Meritt. Kelly et al discloses a case comprising a first panel (the flap portion), a second panel connected to the first panel at a flexible connection. A third panel is connected to the second panel at a second flexible connection where the two panels are hinged to one another. A zipper with two sets of engaging teeth, one set at the second panel and the other set on the third panel. A first strap is the interior foam divider and cushioning piece as shown in Figure 7.

The first panel is also connected to the second panel with connectors. This is the

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corresponding connector on the first panel and the second panel where the first panel (the flap) is releasably attached to the second panel. In the event the case is not attached by hook and loop material, it would have been obvious to so as notoriously known in the art to secure one element to another.

In addition, in the event that the connections are not flexible, it is well known in the art to make the connection flexible to allow the case to rotate to a desired angle for retrieval of the article.

Kelly et al. does not show four strap portion as required in claim 13. However, Trummer shows two straps 304 on a laptop bag. Meritt teaches a mounting device for releasably and securely mounting an entertainment accessory within an automobile having a headrest. The bag has straps 27,30134,136 on the top and bottom of the bag. The straps secure the entertainment device for viewing while in the automobile. Hence, it would have been obvious to stabilize the bag of Kelly within the automobile by strapping the bag to a headrest and a bottom anchor.

Applicant argues that the examiner has not provided any motivation to combine. As stated above in paragraph 1, it has been held that the suggestion to modify the structure in a reference need not necessarily come from the reference itself. In re Laskowski, 10 USPQ2d 1397 (Fed Cir. 1989). It has also been held that a reference is to be considered not only for what it expressly states, but also for what it would have reasonably suggested to one of ordinary skill in the art. In re DeLisle, 56 CCPA 1319, 406 F.2d 1386, 867 OG 722, 160 USPQ 807 (CCPA 1969). In addition, the examiner has pointed out in Merritt the reason for attaching a bag within an automobile. It is for the reasons stated above that the motivation has been laid out and the combination is proper.

5. Claim 14 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Hillsberg et al. (US 5,996,749). Kelly et al. does not show a bump covered by a rubber material as recited in claim 14. However, Hillsberg et al. teaches a container for electronic equipment such as a computer with bumps 18,20 on the interior surface of the third panel. The bumps are covered by rubber material 24 to secure hold and protect the computer. The rubber material can also be considered a bump itself. It would have been obvious in view of Hillsberg to provide cushioning structure with a rubber material cover to securely hold the computer device of Kelly et al.

6. Claim 16 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Shyr (US 5,967,270). Although it appears Kelly et al. teaches the hooks and loops connection for the first and second panels, Shyr is cited to show an example of the Velcro connection 42.

7. Claims 13,16 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. in view of Chen and Meritt and/or Trummer. Kelly et al discloses a case comprising a first panel (the flap portion), a second panel connected to the first panel at a flexible connection. A third panel is connected to the second panel at a second flexible connection where the two panels are hinged to one another. A zipper with two sets of engaging teeth, one set at the second panel and the other set on the third panel.

The first panel is also connected to the second panel with connectors. This is the corresponding connector on the first panel and the second panel where the first panel (the flap) is releasably attached to the second panel. In the event the case is not attached by hook and loop

material, it would have been obvious to so as notoriously known in the art to secure one element to another.

In addition, in the event that the connections are not flexible, it is well known in the art to make the connection flexible to allow the case to rotate to a desired angle for retrieval of the article.

Kelly et al. does not show four strap portion as required in claim 13. However, Trummer shows two straps 304 on a laptop bag. Meritt teaches a mounting device for releasably and securely mounting an entertainment accessory within an automobile having a headrest. The bag has straps 27,30134,136 on the top and bottom of the bag. The straps secure the entertainment device for viewing while in the automobile. Hence, it would have been obvious to stabilize the bag of Kelly within the automobile by strapping the bag to a headrest and a bottom anchor.

As a matter of securement, Chen suggests providing a strap within the interior compartment to stabilize the computer notebook. It would have been obvious to provide the strap portions to removably secure the computer within the bag.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Hillsberg et al. (US 5,996,749). Kelly et al. does not show a bump covered by a rubber material as recited in claim 14. However, Hillsberg et al. teaches a container for electronic equipment such as a computer with bumps 18,20 on the interior surface of the third panel. The bumps are covered by rubber material 24 to secure hold and protect the computer. The rubber material can also be considered a bump itself. It would have been obvious in view of Hillsberg to provide cushioning structure with a rubber material cover to securely hold the computer device of Kelly et al.

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9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Shyr (US 5,967,270). Although it appears Kelly et al. teaches the hooks and loops connection for the first and second panels, Shyr is cited to show an example of the Velcro connection 42.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.


For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

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STL
February 8, 2007


Primary Examiner
Shian Luong
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